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HUMAN RIGHTS COMMITTEE

Fiftieth session

SUMMARY RECORD OF THE 1292nd MEETING

Held at Headquarters, New York,
on Monday, 21 March 1994, at 10.30 a.m.

Chairman: Mr. ANDO

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The meeting was called to order at 11 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the fiftieth session of the Human Rights Committee.

STATEMENT BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL

2. Mrs. KLEIN (Representative of the Secretary-General) informed the Committee that the General Assembly had confirmed the appointment of Ambassador José Ayala Lasso of Ecuador as High Commissioner for Human Rights. The post of High Commissioner had been created by the General Assembly at its forty-eighth session as a follow-up to a recommendation contained in the Vienna Declaration and Programme of Action. The High Commissioner would be responsible, inter alia, for making recommendations to competent bodies of the United Nations system with a view to improving the promotion and protection of all human rights; for engaging Governments in a dialogue with a view to securing respect for all human rights; and for coordinating human rights activities throughout the United Nations system, including, in that regard, rationalizing, adapting, strengthening and streamlining United Nations human rights machinery. In meeting the challenges of his mandate, the High Commissioner would clearly need the good will and collaboration of all States, human rights bodies, intergovernmental agencies and non-governmental organizations, including the Human Rights Committee. In a recent statement to the Commission on Human Rights, he had placed special emphasis on the importance of compliance by all States with obligations undertaken by them in ratifying or acceding to international human rights instruments.

3. She drew attention to several human rights resolutions which had been adopted by the General Assembly at its forty-eighth session, including resolution 48/119. In that resolution, the Assembly had noted with satisfaction the efforts of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights to further improve their working methods, in particular by adopting "concluding observations" containing specific suggestions and recommendations as to steps States parties could take to implement the International Covenants on Human Rights more effectively. The General Assembly had also encouraged the Committees to consider further innovations in their working methods, in particular those aimed at the prevention of serious human rights violations and at the promotion of peaceful solutions. In addition, the General Assembly had once again invited the Committees to identify specific needs of States parties that could be addressed through the advisory services and technical assistance programme of the Centre for Human Rights, with possible participation of members of one of the Committees, where appropriate.

4. In resolution 48/120, the Assembly had requested the Secretary-General, inter alia, to give high priority to establishing a computerized database to improve the functioning of treaty bodies. In that regard, she noted that, since the establishment of a comprehensive database in the Centre for Human Rights would be a long-term process, the International Instruments Branch had initiated

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contacts with international organizations, with a view to enabling the treaty bodies to make use of existing databases within those organizations as soon as possible.

5. At the fiftieth session of the Commission on Human Rights, the Commission had called on States to disseminate at the national level reports submitted to the Human Rights Committee, the summary records relating to the examination of those reports, and the comments of the Committee. The Commission had also adopted a number of resolutions relating to the work of the treaty bodies in general, and the Committee in particular. It had welcomed the adoption by the Committee of its general comments on article 18, and had endorsed the view of the Committee that the right to freedom, thought, conscience and religion was far-reaching and profound. The Commission had appointed a Special Rapporteur on violence against women, and had invited that official to make use of information provided by human rights treaty bodies. The Commission had also invited the treaty bodies to focus attention on violations of the human rights of women.

6. The Commission had adopted a resolution on the succession of States in respect of international human rights treaties, referring, in particular, to the relevant decisions of the Human Rights Committee and the Committee on the Elimination of Racial Discrimination. Moreover, the Commission had requested the human rights treaty bodies to consider their continuing ability to assist States parties in meeting their obligations.

7. The Committee on the Elimination of Racial Discrimination, which, to date, had been financed through contributions from States parties, would in future be financed from the regular budget. She noted also that the Committee against Torture had completed its first inquiry procedure under article 20 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by issuing a summary of its proceedings on Turkey in its annual report to the forty-eighth session of the General Assembly. The procedure had been initiated in April 1990 pursuant to a communication submitted by a non-governmental organization alleging the systematic practice of torture in Turkey. Having examined those allegations, the Committee had requested two of its members to make a confidential inquiry, including a field mission. On 9 November 1993, the Committee had decided, on the basis of the findings of the members of the mission of inquiry, and on other grounds, to make public an account of the results of the inquiry.

8. All the treaty bodies had decided to issue concluding comments reflecting their views on reports submitted by States parties. The procedure initiated by the Human Rights Committee in March 1992 had served as a valuable model.

ADOPTION OF THE AGENDA (CCPR/C/96)

9. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS

Provisional programme of work

10. The CHAIRMAN drew attention to the provisional programme of work distributed to the members of the Committee.

11. Mr. SADI, noting that the third periodic report of Jordan was included in the provisional programme, informed the Committee that Jordan would not be attending the current session of the Committee.

12. The CHAIRMAN confirmed that he had received a note to that effect from the Permanent Representative of Jordan. He suggested the Committee should use the time made available to consider communications. Alternatively, the Committee could use the time to consider oral reports from States parties which had been requested to submit reports to the Committee at a previous session.

13. Mr. DIMITRIJEVIĆ said that the Committee should note for the record that Jordan's dealings with the Committee had been irregular. It should not have to be subjected to that kind of treatment.

14. The CHAIRMAN said he would take note of the comments of Mr. Dimitrijević.

15. Mr. PRADO VALLEJO asked whether, in the light of Jordan's absence, the Committee should consider its agenda as a whole and not just the programme of work for the following few days.

16. Mr. EL-SHAFEI said that the deeply regretted Jordan's absence and had been informed only recently that Jordan would not be attending. Moreover, it was not standard practice for Jordan, which had, to date, always acted promptly in its dealings with the Committee, to fail to appear before the Committee. He suggested that the Chairman should contact the Jordanian delegation in order to determine when it would be able to appear.

17. Mr. LALLAH suggested that the Committee should use Jordan's absence as an opportunity to return to the question of article 27 and perhaps complete its work on that question. He suggested that the Committee should use for that purpose one of the meetings which it would have used for consideration of the periodic report of Jordan.

18. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to adopt the provisional programme of work.

19. The provisional programme of work was adopted.

Reports of the Chairman of the Working Group

20. Mrs. HIGGINS (Chairman of the Working Group on Communications) listed the members of the Working Group and said that it had held five meetings and had adopted two conference room papers: one paper on the implications of the judgement of the Judicial Committee in the Pratt and Morgan case; and a second

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paper concerning proposals of the Special Rapporteur on Follow-Up. A working paper proposing certain amendments to the rules of procedure of the Committee had also been adopted. In addition, the Working Group had adopted seven recommendations concerning final views to be forwarded under article 5 (4) of the Optional Protocol; five recommendations to declare communications inadmissible; and 10 decisions declaring communications admissible. It had begun discussion of three additional communications, but had not completed them for lack of time.

21. Mr. WENNERGREN (Chairman of the Working Group on Article 40) said that the Working Group had held four meetings and had prepared lists of issues for the second periodic reports of Cameroon and El Salvador, and for the third periodic reports of Jordan, Mexico and Costa Rica. In addition, consideration had been given to a draft third optional protocol to the Covenant aimed at guaranteeing, under all circumstances, the right to a fair trial. The draft had been prepared by the Subcommission on Prevention of Discrimination and Protection of Minorities and had been submitted to the Commission on Human Rights for subsequent consideration. The Subcommission had requested that the Secretary-General should transmit the draft to the Committee for written documents and suggestions. He noted with appreciation the contribution of Mrs. Higgins and Mr. Ndiaye to the Working Group's consideration of the draft. The Working Group would submit a written report on its discussion that would contain draft comments and suggestions.

22. The Assistant Secretary-General for Human Rights had requested guidance and practical suggestions with regard to human rights education. His letter had been circulated among members of the Committee for comments and suggestions, and recommendations had been received from one member. The Working Group had discussed the issue and decided to submit the recommendations to the Chairman of the Committee.

23. Another issue that the Working Group had to consider was the format of the annual report. The issue had arisen because of the absence of summary records for the forty-ninth session of the Committee. The Working Group would submit a brief report on the question that would contain suggestions as to how the Committee might proceed in the future.

24. Mrs. Evatt had submitted a draft general comment on article 25, which the Working Group would consider on some appropriate occasion during the current session.

25. Mr. HERNDL asked whether it would not be possible to prepare summary records for the forty-ninth session by using tape recordings of the meetings. It would be regrettable if the records of the Committee's meetings were not complete.

26. The CHAIRMAN asked the secretariat to clarify the situation with respect to summary records for the forty-ninth session.

27. Mrs. KLEIN (Representative of the Secretary-General) said that, in principle, it would be possible to prepare summary records for past meetings. However, the Office of Conference Services would have to be provided with additional resources to accommodate the additional expense involved. In any case, the records would probably not be available in time for the July 1994 session of the Committee.

28. The CHAIRMAN said he would remain in contact with the Secretariat with regard to the question of summary records.

29. Mr. HERNDL said he found the situation with respect to the summary records to be highly irregular. The Committee would be subject to criticism for gaps in its reporting if it did not have summary records on which to base its annual report. The only way to avoid such criticism would be to see to it that the necessary records were prepared. Any additional resources required for that purpose should be made available immediately on a priority basis, so that the next report would not suffer.

30. The CHAIRMAN said he would make every effort to comply with the Committee's wishes. Also, he would inform the Committee of the financial implications of any decision to prepare summary records after the fact.

Lists of issues to be taken up in connection with the consideration of reports submitted by States parties under article 40 of the Covenant

Third periodic report of Costa Rica (CCPR/C/70/Add.4)

Section I

31. Mr. SADI said that a question should be added to section I (a) inquiring whether the report of Costa Rica had been disseminated publicly. The Committee should not hear only the official view on the implementation of the Covenant; the reflections of other groups, such as non-governmental organizations, would be very useful.

32. Mrs. HIGGINS proposed that section I should be divided into a new section I covering paragraphs (a), (b) and (c) (articles 2, 4 and 26 of the Covenant) and a new section II including paragraphs (d) to (i) (articles 6, 7, 9 and 10). Such a division would enable the Committee to have a more coherent discussion.

33. Mr. LALLAH said that, in order to avoid the need to produce an amendment to the document, the Chairman could ask the delegation to answer the questions in paragraphs (a), (b) and (c) together, then proceed to other questions.

34. Mr. WENNERGREN said that those items had been grouped in one section because the first three questions could be dealt with quickly. He favoured Mr. Lallah's proposal in order to save time.

35. Mrs. CHANET said that she favoured the proposal by Mrs. Higgins to separate the issues regarding the institutional and legal framework within which the Covenant was implemented from the other matters addressed in that section, but could agree to Mr. Lallah's proposal.

36. Mr. POCAR said that article 26 of the Covenant should be considered in the context of section II, and that article 2 should appear only under section I.

37. Mr. SADI said that paragraph (h) appeared superfluous, since no judicial system in the world allowed confessions or testimony obtained under duress to be used in court proceedings. Furthermore, paragraphs (f) and (g) could be combined, and the meaning of "specific measures" should be clarified.

38. Mr. WENNERGREN said that he would prefer to retain paragraph (h). Although procedural guarantees were dealt with separately, a discussion of that question might be useful to lead into other procedural matters such as the burden of proof.

39. Mr. MAVROMMATIS agreed that the paragraph should be retained. Undoubtedly, such confessions were excluded from use in court proceedings, but there was also no doubt that most convictions were based on confessions. The procedure used in deciding what constituted duress was a very important issue.

Section II

40. Mrs. EVATT said that article 17 of the Covenant should be considered under section II. Although none of the questions dealt specifically with articles 19, 21 or 22, she would take the opportunity to ask a question regarding article 22 when the Costa Rican delegation was present.

41. Mr. LALLAH said that the organization of the articles under section II was inconsistent with other lists of issues, since articles 2, 3 and 26 were usually taken together. He proposed that paragraph (a) of section II should be included in section I, since it related to article 26 on non-discrimination.

42. Mrs. HIGGINS proposed that, in the interest of a coherent discussion, section I should include, in addition to the current paragraphs (a), (b) and (c), paragraph (a) of section II, which would become paragraph (d).

43. Section II, covering articles 6, 7, 9 and 10, would include paragraphs (d) to (i) of the current section I. A new section III would include paragraphs (b), (c), (d) and (e) of the current section II.

44. Mr. POCAR said that the headings of the sections must be adjusted to reflect the issues they contained.

45. Mr. PRADO VALLEJO said that paragraph (e) of section II should be more specific as to whether the minorities in question were racial, religious or political.

46. Mr. HERNDL said that the third periodic report of Costa Rica had not made any reference to the enjoyment of rights by minorities, while the second periodic report had stated only in passing that the information in the first report was still valid. He hoped, therefore, that a dialogue concerning minorities and the enjoyment of their rights could be initiated. Paragraph (d) could be reworded to read:

> "Please provide information on the extent to which minorities do effectively enjoy their rights under the Covenant. Have any special legislative and administrative measures been taken to that effect?"

47. Mr. POCAR said that the wording "persons belonging to minorities" should be used.

48. Mr. SADI said that, in paragraph (a), "activities" should be replaced by "affirmative action, whether legal or administrative", in order to make the question more specific.

49. The CHAIRMAN said that the suggestions of members of the Committee had been noted and would be reflected by the secretariat in the revised list of issues to be provided to the delegation of Costa Rica.

50. Sections I and II, as orally amended, were adopted.

Third periodic report of Mexico (CCPR/C/76/Add.2)

Sections I, II and III

51. Mrs. HIGGINS said that section I should begin with consideration of the constitutional and institutional issues. Accordingly, paragraph (a) concerning recent events in Chiapas, should follow paragraph (g), and the final phrase should be amended to read "... notably articles 25, 26 and 27". Other questions on Chiapas, relating to rights under other relevant articles, should be included at the beginning of sections II and III to allow for a more structured and focused discussion.

52. Mr. POCAR said that the inclusion of paragraph (c) in section III seemed not to follow the Committee's normal practice. Perhaps that paragraph could be moved to section I.

53. Mr. SADI said that paragraph (b) of section III, referring to the murder of media representatives, should also address the issue of punishment of the culprits.

54. Mr. PRADO VALLEJO asked whether there was a specific reason for the inclusion of paragraph (d) in section III.

55. Mrs. CHANET, commenting on paragraph (c) of section III, said that discrimination often manifested itself as an aspect of a broader issue, which was why paragraphs 425 and 426 of the report, on the employment of Mexican nationals, were the subject of a question relating to the broader issues of the

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rights of foreign workers and the rights of foreign workers and the rights of foreigners to move about the country. Paragraph (b) of section III, concerning the murder of media representatives, could be seen as an issue affecting the media as such or as falling under article 6, concerning the right to life. In fact it was not unusual for questions to relate to various articles. That was why those specific paragraphs had been included under section III rather than section I.

56. The CHAIRMAN said that paragraph (c) of section III could be made more general by deleting the reference to articles 2 and 26.

57. Mr. BRUNI CELLI asked whether a question could be included in the list of issues concerning the publication of the country report in Mexico itself.

58. The CHAIRMAN said that it would be preferable to put such a question from the floor.

59. Mr. POCAR said that paragraph (a) of section III would be better placed under section I, since it clearly related to article 25.

60. The CHAIRMAN said that paragraph (a) would be moved to section I, following paragraph (g).

61. Sections I, II and III, as orally amended, were adopted.

Third periodic report of Cameroon (CCPR/C/63/Add.1)

Section I

62. Section I was adopted.

Section II

63. Section II was adopted.

Section III

64. Mrs. HIGGINS noted that there was a mismatch between the title of section III and the listing of articles, and the articles to which the questions under section III actually related.

65. The CHAIRMAN said that section III would be reorganized accordingly.

66. Section III, as orally amended, was adopted.

Second periodic report of El Salvador (CCPR/C/51/Add.8)

Sections I, II and III

67. Mr. POCAR said that the sections should be arranged so that section I dealt with constitutional and institutional issues and section II with other matters. Not all the articles listed in section III seemed to have questions relating to them.

68. Mrs. HIGGINS asked why there was a reference to article 11 under section I.

69. Mrs. CHANET agreed that questions on the constitutional and institutional framework should appear as a separate section. The very specific circumstances in El Salvador, with issues relating to disappearances and what could even be seen as prisoners of war, had led the Working Group to structure section I in such a way as to enable the Committee to engage in a wide-ranging debate on the situation, without following the normal structure of the Committee's deliberations.

70. Mr. AGUILAR agreed that section I should be split. In connection with paragraph (a) of section II, concerning Decree No. 486 and the report of the Commission on the Truth, the country report contained no details of the deaths and disappearances that had occurred in the country, an issue which the Committee should certainly pursue. The dates in paragraph (n) of section I might need to be amended. It was quite possible that people still remained in detention.

71. The CHAIRMAN said that sections I and II would be rearranged. Paragraph (n) of section I could be reformulated to include a reference to the measures taken to investigate deaths and disappearances. Section II would then deal with questions relating to physical liberty.

72. Mr. BRUNI CELLI said that in a number of instances in Latin America of transitions from regimes based on force to democratic systems, laws had been adopted which had led to full pardons of criminal acts. The aim in paragraph (a) of section II was to ensure that victims of violations had effective remedies and that compensation was available to them or their family members. Events had been reported to the Commission on the Truth that should not be covered under the Amnesty Law, which should not be allowed to become the full impunity law.

The meeting rose at 1.05 p.m.